



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB3284

Introduced 2/19/2016, by Sen. Toi W. Hutchinson

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-43010
55 ILCS 5/5-43015
55 ILCS 5/5-43020
55 ILCS 5/5-43025
55 ILCS 5/5-43035
55 ILCS 5/5-43040
55 ILCS 5/5-43045

Amends the Administrative Adjudication - Specified Counties Division of the Counties Code. Provides that specified counties may provide administrative hearings for ordinance violations for units of local governments (including not-for-profit corporations organized for the purpose of conducting public business) as well as county ordinance violations (currently, only county ordinance violations) if the county and unit of local government have entered into an intergovernmental agreement or contract for the county to do so. Makes conforming changes in the Division.

LRB099 18830 AWJ 43215 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by changing
5 Sections 5-43010, 5-43015, 5-43020, 5-43025, 5-43035, 5-43040,
6 and 5-43045 as follows:

7 (55 ILCS 5/5-43010)

8 Sec. 5-43010. Administrative adjudication of ~~county~~ code
9 and ordinance violations; definitions.

10 (a) Any county may provide by ordinance for a system of
11 administrative adjudication of county code violations to the
12 extent permitted by the Illinois Constitution.

13 (b) Any county may provide by ordinance for a system of
14 administrative adjudication of violations of ordinances
15 enacted by a participating unit of local government where: (i)
16 the unit of local government is engaging in governmental
17 activities or providing services within the boundaries of the
18 county; and (ii) the violation occurred within the boundaries
19 of the county.

20 (c) As used in this Division:

21 "Participating unit of local government" means a unit of
22 local government which has entered into an intergovernmental
23 agreement or contract with a county for the administrative

1 adjudication of violations of its ordinances by the county
2 pursuant to this Division.

3 "System A—"system of administrative adjudication" means
4 the adjudication of any violation of a county ordinance or of a
5 participating unit of local government's ordinance, except for
6 (i) proceedings not within the statutory or the home rule
7 authority of counties or a participating unit of local
8 government; and (ii) any offense under the Illinois Vehicle
9 Code (or a similar offense that is a traffic regulation
10 governing the movement of vehicles and except for any
11 reportable offense under Section 6-204 of the Illinois Vehicle
12 Code).

13 "Unit of local government" has the meaning as defined in
14 the Illinois Constitution of 1970 and also includes a
15 not-for-profit corporation organized for the purpose of
16 conducting public business including, but not limited to, the
17 Northeast Illinois Regional Commuter Railroad Corporation.

18 (Source: P.A. 96-1386, eff. 7-29-10.)

19 (55 ILCS 5/5-43015)

20 Sec. 5-43015. Administrative adjudication procedures not
21 exclusive. The adoption by a county of a system of
22 administrative adjudication does not preclude the county from
23 using other methods to enforce county ordinances. An
24 intergovernmental agreement or contract entered into between a
25 county and participating unit of local government under this

1 Division does not preclude a participating unit of local
2 government from using other methods to enforce its ordinances.

3 (Source: P.A. 96-1386, eff. 7-29-10.)

4 (55 ILCS 5/5-43020)

5 Sec. 5-43020. Code hearing units; powers of hearing
6 officers.

7 (a) An ordinance establishing a system of administrative
8 adjudication, pursuant to this Division, shall provide for a
9 code hearing unit within an existing agency or as a separate
10 agency in the county government. The ordinance shall establish
11 the jurisdiction of a code hearing unit that is consistent with
12 this Division. The "jurisdiction" of a code hearing unit refers
13 to the particular code violations that it may adjudicate.

14 (b) Adjudicatory hearings shall be presided over by hearing
15 officers. The powers and duties of a hearing officer shall
16 include:

17 (1) hearing testimony and accepting evidence that is
18 relevant to the existence of the code violation;

19 (2) issuing subpoenas directing witnesses to appear
20 and give relevant testimony at the hearing, upon the
21 request of the parties or their representatives;

22 (3) preserving and authenticating the record of the
23 hearing and all exhibits and evidence introduced at the
24 hearing;

25 (4) issuing a determination, based on the evidence

1 presented at the hearing, of whether a code violation
2 exists, which shall be in writing and shall include a
3 written finding of fact, decision, and order including the
4 fine, penalty, or action with which the defendant must
5 comply; and

6 (5) imposing penalties consistent with applicable code
7 provisions and assessing costs upon finding a party liable
8 for the charged violation, except, however, that in no
9 event shall the hearing officer have authority to: (i)
10 impose a penalty of incarceration; or (ii) impose a fine in
11 excess of \$50,000, or at the option of the county for a
12 fine imposed for a violation of a county ordinance or at
13 the option a participating unit of local government for a
14 fine imposed for violation of an ordinance of the
15 participating unit of local government, such other amount
16 not to exceed the maximum amount established by the
17 Mandatory Arbitration System as prescribed by the Rules of
18 the Illinois Supreme Court from time to time for the
19 judicial circuit in which the county is located. The
20 maximum monetary fine under this item (5), shall be
21 exclusive of costs of enforcement or costs imposed to
22 secure compliance with the county's ordinances or
23 participating unit of local government's ordinances and
24 shall not be applicable to cases to enforce the collection
25 of any tax imposed and collected by the county or
26 participating unit of local government.

1 (c) Prior to conducting administrative adjudication
2 proceedings, administrative hearing officers shall have
3 successfully completed a formal training program that includes
4 the following:

5 (1) instruction on the rules of procedure of the
6 administrative hearings that they will conduct;

7 (2) orientation to each subject area of the code
8 violations that they will adjudicate;

9 (3) observation of administrative hearings; and

10 (4) participation in hypothetical cases, including
11 ruling on evidence and issuing final orders.

12 In addition, every administrative hearing officer must be
13 an attorney licensed to practice law in the State of Illinois
14 for at least 3 years.

15 (d) A proceeding before a code hearing unit shall be
16 instituted upon the filing of a written pleading by an
17 authorized official of the county or participating unit of
18 local government.

19 (Source: P.A. 96-1386, eff. 7-29-10.)

20 (55 ILCS 5/5-43025)

21 Sec. 5-43025. Administrative hearing proceedings.

22 (a) Any ordinance establishing a system of administrative
23 adjudication, pursuant to this Division, shall afford parties
24 due process of law, including notice and opportunity for
25 hearing. Parties shall be served with process in a manner

1 reasonably calculated to give them actual notice, including, as
2 appropriate, personal service of process upon a party or its
3 employees or agents; service by mail at a party's address; or
4 notice that is posted upon the property where the violation is
5 found when the party is the owner or manager of the property.
6 In counties with a population under 3,000,000, if the notice
7 requires the respondent to answer within a certain amount of
8 time, the county or participating unit of local government must
9 reply to the answer within the same amount of time afforded to
10 the respondent.

11 (b) Parties shall be given notice of an adjudicatory
12 hearing that includes the type and nature of the code violation
13 to be adjudicated, the date and location of the adjudicatory
14 hearing, the legal authority and jurisdiction under which the
15 hearing is to be held, and the penalties for failure to appear
16 at the hearing.

17 (c) Parties shall be provided with an opportunity for a
18 hearing during which they may be represented by counsel,
19 present witnesses, and cross-examine opposing witnesses.
20 Parties may request the hearing officer to issue subpoenas to
21 direct the attendance and testimony of relevant witnesses and
22 the production of relevant documents. Hearings shall be
23 scheduled with reasonable promptness, except that for hearings
24 scheduled in all non-emergency situations, if requested by the
25 defendant, the defendant shall have at least 15 days after
26 service of process to prepare for a hearing. For purposes of

1 this subsection (c), "non-emergency situation" means any
2 situation that does not reasonably constitute a threat to the
3 public interest, safety, or welfare. If service is provided by
4 mail, the 15-day period shall begin to run on the day that the
5 notice is deposited in the mail.

6 (Source: P.A. 96-1386, eff. 7-29-10.)

7 (55 ILCS 5/5-43035)

8 Sec. 5-43035. Enforcement of judgment.

9 (a) Any fine, other sanction, or costs imposed, or part of
10 any fine, other sanction, or costs imposed, remaining unpaid
11 after the exhaustion of or the failure to exhaust judicial
12 review procedures under the Illinois Administrative Review Law
13 are a debt due and owing the county for a violation of a county
14 ordinance, or the participating unit of local government for a
15 violation of a participating unit of local government's
16 ordinance, and may be collected in accordance with applicable
17 law.

18 (b) After expiration of the period in which judicial review
19 under the Illinois Administrative Review Law may be sought for
20 a final determination of a code violation, unless stayed by a
21 court of competent jurisdiction, the findings, decision, and
22 order of the hearing officer may be enforced in the same manner
23 as a judgment entered by a court of competent jurisdiction.

24 (c) In any case in which a defendant has failed to comply
25 with a judgment ordering a defendant to correct a code

1 violation or imposing any fine or other sanction as a result of
2 a code violation, any expenses incurred by a county for a
3 violation of a county ordinance, or the participating unit of
4 local government for a violation of a participating unit of
5 local government's ordinance, to enforce the judgment,
6 including, but not limited to, attorney's fees, court costs,
7 and costs related to property demolition or foreclosure, after
8 they are fixed by a court of competent jurisdiction or a
9 hearing officer, shall be a debt due and owing the county for a
10 violation of a county ordinance, or the participating unit of
11 local government for a violation of a participating unit of
12 local government's ordinance, and may be collected in
13 accordance with applicable law. Prior to any expenses being
14 fixed by a hearing officer pursuant to this subsection (c), the
15 county for a violation of a county ordinance, or the
16 participating unit of local government for a violation of a
17 participating unit of local government's ordinance, shall
18 provide notice to the defendant that states that the defendant
19 shall appear at a hearing before the administrative hearing
20 officer to determine whether the defendant has failed to comply
21 with the judgment. The notice shall set the date for the
22 hearing, which shall not be less than 7 days after the date
23 that notice is served. If notice is served by mail, the 7-day
24 period shall begin to run on the date that the notice was
25 deposited in the mail.

26 (c-5) A default in the payment of a fine or penalty or any

1 installment of a fine or penalty may be collected by any means
2 authorized for the collection of monetary judgments. The
3 state's attorney of the county in which the fine or penalty was
4 imposed may retain attorneys and private collection agents for
5 the purpose of collecting any default in payment of any fine or
6 penalty or installment of that fine or penalty. Any fees or
7 costs incurred by the county or participating unit of local
8 government with respect to attorneys or private collection
9 agents retained by the state's attorney under this Section
10 shall be charged to the offender.

11 (d) Upon being recorded in the manner required by Article
12 XII of the Code of Civil Procedure or by the Uniform Commercial
13 Code, a lien shall be imposed on the real estate or personal
14 estate, or both, of the defendant in the amount of any debt due
15 and owing the county for a violation of a county ordinance, or
16 the participating unit of local government for a violation of a
17 participating unit of local government's ordinance, under this
18 Section. The lien may be enforced in the same manner as a
19 judgment lien pursuant to a judgment of a court of competent
20 jurisdiction.

21 (e) A hearing officer may set aside any judgment entered by
22 default and set a new hearing date, upon a petition filed
23 within 21 days after the issuance of the order of default, if
24 the hearing officer determines that the petitioner's failure to
25 appear at the hearing was for good cause or at any time if the
26 petitioner establishes that the county for a violation of a

1 county ordinance, or the participating unit of local government
2 for a violation of a participating unit of local government's
3 ordinance, did not provide proper service of process. If any
4 judgment is set aside pursuant to this subsection (e), the
5 hearing officer shall have authority to enter an order
6 extinguishing any lien that has been recorded for any debt due
7 and owing the county for a violation of a county ordinance, or
8 the participating unit of local government for a violation of a
9 participating unit of local government's ordinance, as a result
10 of the vacated default judgment.

11 (Source: P.A. 99-18, eff. 1-1-16.)

12 (55 ILCS 5/5-43040)

13 Sec. 5-43040. Impact on existing administrative
14 adjudication systems. This Division does not affect the
15 validity of systems of administrative adjudication that were
16 authorized by State law, including home rule authority, and in
17 existence before July 29, 2010 (the effective date of Public
18 Act 96-1386) ~~this amendatory Act of the 96th General Assembly.~~

19 (Source: P.A. 96-1386, eff. 7-29-10.)

20 (55 ILCS 5/5-43045)

21 Sec. 5-43045. Impact on home rule authority. This Division
22 does not preempt counties or participating units of local
23 government from adopting other systems of administrative
24 adjudication pursuant to their home rule powers.

1 (Source: P.A. 96-1386, eff. 7-29-10.)